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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GLORIA LYNN STEWARD,

Plaintiff,

v.

KILOLO KIJAKAZI¹,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. 2:21-cv-00714-EJY

**SECOND MOTION
FOR EXTENSION OF TIME TO FILE
PLAINTIFF'S BRIEF**

Plaintiff, Gloria Lynn Steward, by her attorney, Hal Taylor, Esq., Of Counsel, Olinsky Law Group, hereby moves for a twenty-one (21) day extension of time to file Plaintiff's Opening Brief. Plaintiff's opening brief is currently due to be filed December 21, 2021. This is Plaintiff's second request for an extension of time in this matter. On October 15, 2021, this Court graciously granted Plaintiff's first Motion for an Extension of Time (Dkt. No. 18).

Counsel request this extension of time in this matter are due to a culmination of events which have caused such extraordinary circumstances that such extensions are warranted. As noted in the attached Declaration of Howard D. Olinsky, managing partner of Olinsky Law

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on 7/9/2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted for Andrew Saul as the Defendant in this suit.

1 Group, after the initial shutdown related to the COVID-19 pandemic in March, 2020, the
2 Commissioner's capacity to produce Administrative Records fell from 300 Administrative
3 Records a week to essentially zero for a large portion of 2020. As of January 2021, the Agency
4 reported over 11,000 pending cases. After months of delay due to the Agency's inability to
5 produce Administrative Records, the Agency expanded their out-of-office capacity to over 700
6 Administrative Records per week. As of mid-September 2021, the Agency reduced the number
7 of pending cases to just 2,350, a decrease of 8,650 cases in just over nine (9) months. In tandem
8 with the decrease in production of Administrative Records throughout 2020, the Appeals Council
9 withheld claims containing, *inter alia*, claims of constitutional violations under the Supreme
10 Court's holding in *Seila Law LLC v. Consumer Financial Protection Bureau*, 140 S. Ct. 2183
11 (June 29, 2020). As evidenced in the attached Declaration, Olinsky Law Group went from
12 receiving 65 Appeals Council denials in October 2020 to just 25 Appeals Council denials in
13 November and December of 2020. Subsequently in January 2021, the Agency released
14 Emergency Message-21002, which directed staff to flag claims in which the *Seila* issue was
15 raised and to continue processing these claims without discussing or making any finding
16 regarding the *Seila* issue. As evidenced in the attached Declaration, Olinsky Law Group then
17 received 541 Appeals Council denials in January 2021; 1,127 Appeals Council denials in
18 February 2021; and 358 Appeals Council denials in March 2021. Further, these numbers only
19 represent *internal* Appeals Council denials received by the Olinsky Law Group, who represents a
20 significant number of additional clients who are referred to this office by non-attorney
21 representatives or unaffiliated attorneys.

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27 Olinsky Law Group filed just over 100 Briefs in the month of July 2021, and this figure
28 does not include Reply Briefs, Objections to Report and Recommendations, Responses to

1 Motions, 59(e) Responses, Oral Arguments, appeals to the Circuit Courts, EAJA petitions, Fee
2 Litigation, 406(b) Petitions, and other miscellaneous tasks which arise throughout the course of
3 litigation. Counsel asserts that the culmination of these factors, further evidenced in more detail
4 in the attached Declaration of Howard D. Olinsky, has created extraordinary circumstances *not*
5 *related to the COVID-19 pandemic, but due to exigent circumstances created by the COVID-19*
6 *pandemic and the Commissioner's response.*

8 Wherefore, Plaintiff requests an extension from December 21, 2021 up to and including
9 January 11, 2022 to file her brief. Counsel for the Plaintiff has conferred with Defendant's
10 Counsel who kindly consents to this request.

12 Dated this 14th day of December, 2021.

13 Respectfully submitted,

14 /s/Hal Taylor

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23 **ORDER**

24 IT IS SO ORDERED.

25 Dated this 15th day of December, 2021.

26 
27 United States Magistrate Judge
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